

§ 7.3

(3) Identify the location of the indices to such records; and

(4) Identify the officials having authority to deny requests for disclosure of records under this part.

(d) The Office of the General Counsel may amend appendix A to this part to reflect any changes in the items covered by that appendix. The head of an operating element concerned may amend the appendix applicable to that element to reflect any changes in the items covered by that appendix.

(e) This part applies only to records that exist as of the date of receipt of the request by the appropriate office, in accordance with § 7.53 of this part. The Department is not required to create, compile or procure a record solely for the purpose of making it available under this part.

(f) Indices are maintained to reflect all records subject to subpart E of this part, and are available for public inspection and copying as provided in appendices A through J to this part.

[53 FR 30268, Aug. 11, 1988, as amended by Amdt. 7-1, 54 FR 10010, Mar. 9, 1989]

§ 7.3 Policy.

In implementing section 552 of title 5, United States Code, it is the policy of the Department of Transportation to make information available to the public to the greatest extent possible in keeping with the spirit of that section. Therefore, all records of the Department, except those that the Department specifically determines must not be disclosed in the interest of national defense or foreign policy, for the protection of private rights and commercial interests or for the efficient conduct of public business to the extent permitted by the Freedom of Information Act, are declared to be available for public inspection and copying as provided in this part. Each officer and employee of the Department is directed to cooperate to this end and to make records available to the public promptly and to the fullest extent consistent with this policy. A record may not be withheld from the public solely because its release might suggest administrative error or embarrass an officer or employee of the Department.

49 CFR Subtitle A (10-1-96 Edition)

§ 7.5 Definitions.

As used herein, unless the context requires otherwise:

Administrator means the head of each operating element of the Department and includes the Commandant of the Coast Guard.

Department or *DOT* means the Department of Transportation, including the Office of the Secretary and the following operating elements:

- (a) The United States Coast Guard.
- (b) The Federal Aviation Administration.
- (c) The Federal Highway Administration.
- (d) The Federal Railroad Administration.
- (e) The National Highway Traffic Safety Administration.
- (f) The Urban Mass Transportation Administration.
- (g) The Saint Lawrence Seaway Development Corporation.
- (h) The Maritime Administration.
- (i) The Research and Special Programs Administration.

Record includes any writing, drawing, map, recording, tape, film, photograph or other documentary material by which information is preserved. The term also includes any such documentary material stored by computer. However, the term does not include uncirculated personal notes, papers and other documents created and retained solely for the personal convenience of Departmental personnel and over which the agency exercises no control. If a request is made for a personal record of a DOT official or employee, that request is denied, since it is not within the Department's authority to disclose such records and the Freedom of Information Act does not apply to them. However, until the requester's appeal and litigation rights expire, DOT retains a copy of such records for the benefit of any reviewing court. This retention does not constitute control as that term is used here.

Secretary means the Secretary of Transportation or any person to whom the Secretary has delegated authority in the matter concerned.